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August 27, 2014

**By ECF and Facsimile (212-805-4268)**

The Honorable Gabriel W. Gorenstein  
United States District Court  
Southern District of New York  
United States Courthouse  
500 Pearl Street, Room 1930  
New York, New York 10007-1312

**Re: *Khaldei v. Kaspiev*, 10 Civ. 8328 (JFK) (GWG)**

Dear Judge Gorenstein:

We write on behalf of Defendant and Counterclaim-Plaintiff Kalman Kaspiev ("Kaspiev") regarding a dispute over whether Kaspiev must respond to Plaintiff's First Set of Requests for Admission, served May 15, 2013 (the "RFAs"). Although the Court just issued an Order on the record at the August 21, 2014 status conference denying Plaintiff's application to compel Kaspiev's responses to the RFAs, Plaintiff contends that Defendant must respond. Kaspiev disagrees.

As the Court is aware, last Thursday, the parties attended two status conferences in this matter, including a status conference before Your Honor to discuss the discovery dispute Plaintiff raised by letter on August 7 – whether to compel Defendant to respond to Plaintiff's RFAs.<sup>1</sup> The Court ruled that the application was tardy, and that, in any event, Plaintiff's RFAs would not assist with the presentation of evidence at trial; instead, a more appropriate tool regarding the presentation of evidence would be the joint pre-trial order. Accordingly, the Court denied Plaintiff's request to compel Defendant's responses to Plaintiff's RFAs. Following the status conference before Your Honor, the parties proceeded to appear before Judge Keenan at a status conference, at which time the Court set a new discovery deadline of December 1, 2014.

Two business days after the August 21 conferences, Plaintiff's counsel demanded Defendant respond to Plaintiff's RFAs, arguing that Judge Keenan's imposition of a December 1 discovery deadline re-opened *all discovery* – despite Your Honor having just ruled that Defendant need not respond to Plaintiff's RFAs.

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<sup>1</sup> Kaspiev does not yet have the transcript of this conference.

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The Honorable Gabriel W. Gorenstein  
August 27, 2014  
Page 2

We do not believe it was the Court's intention to reverse itself on the subject of whether Defendant need respond to Plaintiff's RFAs, one hour after the Court issued its ruling. For all of the reasons Your Honor recognized at the August 21, 2014 status conference, Defendant should not be compelled to respond to the RFAs.

Kaspiev does not believe that a conference is necessary to resolve this dispute, but of course we are available if the Court believes it would be helpful.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Margaret A. Dale". The signature is written in a cursive, flowing style.

Margaret A. Dale

cc: Daniel Rothstein, Esq. (counsel for Plaintiff, by electronic mail and ECF)  
Joshua H. Abramson, Esq. (counsel for Plaintiff, by electronic mail and ECF)  
Jennifer L. Jones, Esq. (counsel for Defendant)  
Victoria L. Loughery, Esq. (counsel for Defendant)  
John (Jack) Browning, Esq. (counsel for Defendant)